



August 27, 2018

Hon. Stacy L. Ruble, Secretary
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

Dear Mr. Ruble:

In connection with Commission Order No. 2097¹ and Commission Rule 3010.43(b), the Postal Service hereby submits the Data Collection Report for Contract Year 4 of the PHI Acquisitions, Inc. Negotiated Services Agreement, including Appendix A.²

I have uploaded a redacted version of Appendix A to the Data Collection Report to the Public Library References folder on the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT). In addition, I have uploaded a non-public version of Appendix A to the Non-Public Library Reference folder on USPS SLFT. The non-public version contains a small amount of confidential data contained in two tabs, and should not be posted on the Commission's website.

Please find the Data Collection Report attached to this letter, followed by Attachment 2, which is the Postal Service's application for non-public treatment of the non-public version of Appendix A.

If you have any questions regarding this submission or the discussion above, please do not hesitate to contact me.

Best regards,

/s/

Kara C. Marcello
Attorney, Pricing and Product Support

cc: Ms. Taylor

¹ PRC Order No. 2097, Order Adding PHI Acquisitions, Inc. Negotiated Service Agreement to the Market Dominant Product List, Docket Nos. R2014-6 and MC2014-21, June 19, 2014.

² As noted in the Notice of Termination of Agreement of June 19, 2018, this filing constitutes the final data collection report for the PHI Acquisitions, Inc. Negotiated Services Agreement.

**PHI ACQUISITIONS NEGOTIATED SERVICE AGREEMENT
DATA COLLECTION REPORT
(JULY 1, 2017 – JUNE 30, 2018)**

INTRODUCTION:

Pursuant to Order No. 2097 in Docket Nos. R2014-6 and MC2014-21, and 39 C.F.R. § 3010.43(b) the United States Postal Service (“Postal Service”) presents its Data Collection Report (“DCR”) on the PHI Acquisitions, Inc.’s (“PHI”) Negotiated Service Agreement (“NSA”) with the Postal Service.

DATA COLLECTION REPORT:

1. PHI volumes entered by qualifying price category for the contract year.

See Appendix A, page 1 (1_Total Volume Revenue Yr 4).

2. PHI postage paid by qualifying price category for the contract year.

See Appendix A, page 1 (1_Total Volume Revenue Yr 4).

3. PHI package fulfillment volumes by service level.

See Appendix A, page 2 (2_Package Fulfillment).

4. Adjusted Annual Baseline Threshold and the resulting Quarterly Baseline Volumes that will be used for the next contract year to establish PHI eligibility for rebates and payment of fines, and the underlying calculations.

The Postal Service is not providing these data because the contract terminated on June 30, 2018. See Notice of the United States Postal Service of Termination of Agreement, Docket Nos. MC2014-21 and R2014-6 (June 19, 2018).¹

¹ The Postal Service notes that Appendix A, unlike past reports, does not include a “Price Change Calc” tab, which was relevant only to calculate adjustments to the baseline threshold and quarterly baseline volumes in subsequent contract quarters.

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5. The rebate paid to or penalty paid by PHI (if any) and the calculations underlying their determination.

See Appendix A, page 4 (4_Year 4 Rebate). PHI earned an aggregate rebate of \$837.1 thousand on the eligible USPS Marketing Mail volume since it exceeded one quarterly aggregate volume threshold during Agreement Year 4. This amount reflects a reduction of \$553.58 to off-set the excess payment made to PHI during Agreement Year 3.² PHI did not participate in any other USPS volume/revenue growth incentive program during Agreement Year 4.

ADDITIONAL DATA REQUESTED BY THE COMMISSION PURSUANT TO ORDER NO. 2097:

1. Calculation of the change in net financial position of the Postal Service as a result of the PHI NSA, using the Commission's methodology with product elasticities.

See Appendix A, page 5 (5_Commission's Methodology).

2. Calculation of the change in net financial position of the Postal Service as a result of the PHI NSA, using the Commission's methodology with elasticity specific to PHI NSA volume.

See Appendix A, page 5a (5a_PRC Method wPHI Elasticity).

² As described in the Data Collection Report for Year 3 of the Agreement, due to an error in the underlying data, the Postal Service paid PHI \$553.58 in excess of the amount of rebate earned during Agreement Year 3. The data error affected only Quarter 3 of Agreement Year 3 and inflated reported revenues, leading to inflated revenue per piece figures, which are used to determine the rebate earned. The Postal Service recovered the \$553.58 excess payment by off-setting it against the rebate earned in Quarter 2 of Agreement Year 4.

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- 3. PHI-specific costs, volumes, and revenues by qualifying price category for the contract year. If PHI-specific costs are not available, the source and derivation of the costs that are used shall be provided, including a discussion of the currency and reliability of those costs, and their suitability as a proxy for mailer-specific costs.**

See Appendix A, page 1 (1_Total Volume Revenue Yr 4).

- 4. An analysis of the effects of the Agreement on the net overall contribution to the institutional costs of the Postal Service.**

See Appendix A, page 6 (6_USPS Net Value). Appendix A, page 6 (6_USPS Net Value) shows volume and negative net contribution of \$837.1 thousand for Agreement Year 4. Overall, the agreement resulted in a net negative contribution of \$97.9 thousand.

The Postal Service is fully aware of its responsibility for negotiating and overseeing NSAs, and ensuring that any Market Dominant NSA it enters into continues to improve the net financial position of the Postal Service. See 39 U.S.C. § 3622(c)(10)(A). The Postal Service and PHI agreed to suspend the Postal Service's obligation to pay rebates in Quarters 3 and 4 of Agreement Year 4, or until the Commission approved a revised agreement. The parties later agreed to terminate the agreement upon the close of Agreement Year 4 on June 30, 2018.

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5. A discussion of the changes in operations of the Postal Service that result from the Agreement.

By limiting PHI Eligible Mail to Carrier Route flats (Saturation, High Density Plus, High Density, and Basic), which bear a full-service Intelligent Mail Barcode (“IMb”), the structure and eligibility requirements of the NSA create economies of scale and scope that enhanced the preparation of all Flats mail. Other than these eligibility requirements, no components of this Agreement were specifically designed to enhance the performance of mail preparation, processing, transportation, or other functions.

6. An analysis of the impact of the Agreement on the marketplace, including a discussion of any and all actions taken to protect the marketplace from unreasonable harm.

The Postal Service monitors the performance of, and investigates significant changes in, mailing activity among large mailers including large retail, e-commerce, and catalog industry mailers. To date, no significant performance issues were observed that directly or indirectly relate to this NSA. Thus, we do not believe the NSA caused unreasonable harm to the marketplace.

**PHI ACQUISITIONS NEGOTIATED SERVICE AGREEMENT
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- 7. A list of all of PHI's acquisitions and divestitures that occurred during the contract year, and the volumes and threshold impacts associated with any such acquisitions or divestitures.**

There were no acquisition or divestiture activities by PHI during Agreement Year 4, and therefore, no volume and threshold impact.

- 8. Cumulative cost, volume, and revenue totals covering Contract Year One through Contract Year Four.**

See Appendix A, page 6 (6_USPS Net Value).

ATTACHMENT 2

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. Part 3007, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The materials consist of discrete portions of Appendix A to the Data Collection Report for Contract Year 4 of the PHI Acquisitions, Inc. ("PHI") Negotiated Services Agreement ("NSA") filed pursuant to Order No. 2097¹ and Commission Rule 3010.43(b). A public version of Appendix A, which shows virtually all content except PHI's package volume on page 2 (2_Package Fulfillment) and the identity and volume of the title acquired by PHI in Contract Year 1 of the agreement in the "Acquis._Divest. Vol Base" tab, is included with this filing as a separate Excel file. As was the case for previous Data Collection Reports related to the PHI NSA, a non-public version showing all this information is filed under seal.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.201(b)(1)–(b)(8) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.

The materials designated as non-public consist of information of a commercial nature that under good business practice would not be publicly disclosed. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to

¹ PRC Order No. 2097, Order Adding PHI Acquisitions, Inc. Negotiated Service Agreement to the Market Dominant Product List, Docket Nos. R2014-6 and MC2014-21, June 19, 2014.

39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).² Because the portions of the materials that the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.³

The Postal Service and PHI have a proprietary interest in the information contained within the non-public materials. The Postal Service gives notice that it has informed PHI, in compliance with 39 C.F.R. § 3007.200(b), of the nature and scope of

² In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that “likely commercial injury” should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 4679, Order Adopting Final Rules relating to Non-Public Information, Docket No. RM2018-3, June 27, 2018, at 16 (reconfirming that the adopted final rules do not alter this long-standing practice); PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

³ Section 3007.201(b)(2) further states the following:

(i) If the submitter has a proprietary interest in the information contained within the materials, identification of an individual designated by the submitter to accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials.

(ii) If any person other than the submitter has proprietary interest in the information contained within the materials, identification of each person who is known to have a proprietary interest in the information. If such an identification is sensitive or impracticable, an explanation shall be provided along with the identification of an individual designated by the submitter to provide notice to each affected person.

(iii) If both the submitter and any person other than the submitter have a proprietary interest in the information contained within the non-public materials, identification in accordance with both paragraphs (b)(2)(i) and (ii) of this section shall be provided. The submitter may designate the same individual to fulfill the requirements of paragraphs (b)(2)(i) and (ii) of this section.

this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service identifies Nabeel R. Cheema, Chief Counsel, Postal Service, as the appropriate contact on behalf of PHI, and pursuant to 39 C.F.R. § 3007.201(b)(2)(iii), also designates Mr. Cheema to accept actual notice of a motion related to the non-public material or notice of the pendency of a subpoena or order requiring production of the materials. Mr. Cheema's email address is Nabeel.R.Cheema@usps.gov, and his telephone number is 202-268-2989.

(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.

In connection with this application, the Postal Service has filed Appendix A to the Data Collection Report for Contract Year 4 of the PHI NSA, which contains data supporting the report. The market dominant and competitive package volume data relating to a single customer shown in the non-public version of Appendix A is commercially sensitive. Therefore, the Postal Service maintains that the non-public version of Appendix A should remain confidential.

(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.

If the information that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers it quite likely that it and PHI would suffer commercial harm. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Disclosure of this information would undermine the Postal Service's position in negotiating favorable terms with

potential customers. In addition, PHI's competitors would be able to ascertain critical information about PHI's relevant product trends and use the volume data to analyze its possible market strengths and weaknesses, to its own detriment. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the material filed non-publicly.

(5) At least one specific hypothetical, illustrative example of each alleged harm.

Harm: The Postal Service's competitors could use PHI's product volume to assess the Postal Service's vulnerabilities and undermine its business.

Hypothetical: Another delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor assesses the lucrativeness of certain services on a per-piece or per-pound basis and draws conclusions on the Postal Service's relative concentration in certain service offerings by extrapolating from the PHI data. The competitor then targets its advertising and sales efforts at actual or potential customers in market segments where the Postal Service appears to have made headway, hindering the Postal Service's ability to reach out effectively to these customers.

Harm: Public disclosure of PHI's information contained in the non-public materials could be used by its competitors to its detriment.

Hypothetical: A competitor of PHI obtains information contained in the non-public portions of Appendix A. The competitor uses the information to assess the market potential and, as a baseline, to negotiate with other parties to develop lower-cost alternatives and undermine PHI's market offerings.

(6) The extent of protection from public disclosure alleged to be necessary.

The Postal Service maintains that the portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products (including private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for these or similar products should not be provided access to the non-public materials.

(7) The length of time for which non-public treatment is alleged to be necessary with justification thereof.

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3007.401(a). However, because the Postal Service's relationships with customers often continue beyond ten years, the Postal Service intends to oppose requests for disclosure of these materials pursuant to 39 C.F.R. § 3007.401(b-c).

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.